



ORGANIZATION FOR THE PROTECTION  
AND ADVANCEMENT OF SMALL  
TELEPHONE COMPANIES

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June 29, 1994

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Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

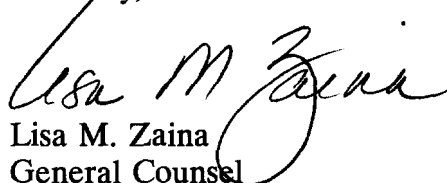
Re: Price Cap Performance Review  
for Local Exchange Carriers  
CC Docket 94-1

Dear Mr. Caton:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' reply comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

  
Lisa M. Zaina  
General Counsel

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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JUN 29 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF GENERAL COUNSEL

In the Matter of )

Price Cap Performance Review )  
for Local Exchange Carrier )

CC Docket No. 94-1

**REPLY COMMENTS OF  
THE ORGANIZATION FOR THE PROTECTION AND  
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

OPASTCO  
21 Dupont Circle, NW  
Suite 700  
Washington, DC 20036  
(202) 659-5990

June 29, 1994

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Price Cap Performance Review	)	CC Docket No. 94-1
for Local Exchange Carriers	)	

**REPLY COMMENTS OF  
THE ORGANIZATION FOR THE PROTECTION AND  
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

**I. INTRODUCTION**

On February 16, 1994, the Federal Communications Commission (FCC or Commission) released the text of a Notice of Proposed Rulemaking seeking comment on the performance of certain local exchange carriers (LECs) which are regulated by price caps.<sup>1</sup> Comments were filed in response to the FCC's NPRM on May 9, 1994. The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) hereby responds to certain comments and reiterates the concerns voiced in its initial comments.

OPASTCO is a national trade association of more than 440 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which include both commercial companies and cooperatives, together serve more than two million customers. As OPASTCO noted in its

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<sup>1</sup>In the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Notice of Proposed Rulemaking, 59 FR 12888 (March 18, 1994). (NPRM)

initial comments, none of its member companies have elected to be regulated in the federal jurisdiction via the price cap system. Instead, small and rural LECs are more interested in preserving a viable rate-of-return alternative to price caps.

## **II. COMMENTS**

As OPASTCO expected, many commenters espoused the value of price caps, seemingly to the detriment of rate-of-return regulation. For example, in its comments the United States Telephone Association (USTA) asserted that "despite its shortcomings, the LEC price cap plan has produced more favorable results than would have been realized under full rate-of-return regulation over the past 3 1/2 years."<sup>2</sup> USTA also maintains that price cap regulation has furthered the pursuit of the goal of universal service.<sup>3</sup> USTA points out that the overall nationwide level of telephone penetration has increased 0.9% during the time that price caps have been in effect, and reasons that, because price cap LECs account for 93% of the access lines in the country, any adverse effect on universal service due to price caps would show up in that nationwide data.<sup>4</sup>

OPASTCO does not dispute that data, but does submit that there are other factors at work here. In its initial comments OPASTCO stated that several of its member companies have

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<sup>2</sup>USTA Comments at 12.

<sup>3</sup>Id. at 13.

<sup>4</sup>Id., fn 23.

purchased, or considered purchasing, certain rural exchanges that price cap LECs have offered for sale. OPASTCO stated that these transactions have improved the type and quality of telephone service available to the customers in the exchanges that have been sold, and should be considered part of the pursuit of universal service. Without the existence of rate-of-return regulation and its attendant support programs, these purchases would not have been possible. The affected customers would not enjoy the single-party lines and digital switching that the small LEC purchasers will provide.

USTA appears to agree. In its discussion of the price cap rules governing the sale of exchanges,<sup>5</sup> it characterizes those transactions as having "substantial public interest benefits."<sup>6</sup>

OPASTCO believes that the fact that price cap LECs are attempting to sell off some of their high-cost rural exchanges, and in many cases small rate-of-return LECs are attempting to buy those exchanges, indicates that, at least in those markets, rate-of-return regulation is a factor that contributes to the pursuit of universal service.

Because of the importance of rate-of-return regulation to the nation's small and rural LECs and their customers, OPASTCO believes it is vitally important not to consider fundamental changes to the overall access market, or changes to the Universal

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<sup>5</sup>USTA's position is the same as OPASTCO's -- no changes are necessary in the current waiver process. USTA Comments at 93.

<sup>6</sup>Id.

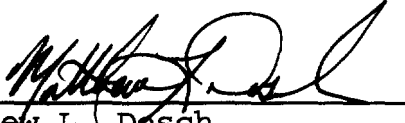
Service Fund and other Part 69 support programs, in the context of this price cap performance review proceeding.

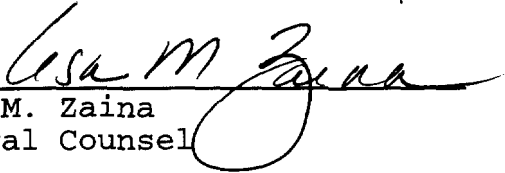
**III. CONCLUSION**

OPASTCO reiterates that rate-of-return regulation has encouraged the pursuit of universal service goals in rural areas. The fundamental rate-of-return system, including Part 69 support programs, must not be modified in the context of this price cap performance review proceeding.

Respectfully submitted,

**THE ORGANIZATION FOR THE  
PROTECTION AND ADVANCEMENT OF  
SMALL TELEPHONE COMPANIES**

By:   
Matthew L. Dosch  
Manager - Regulatory and  
Legislative Affairs

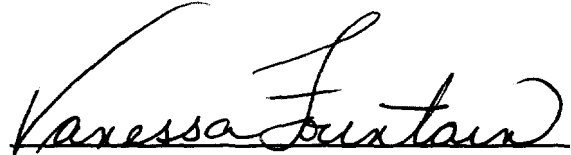
By:   
Lisa M. Zaina  
General Counsel

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June 29, 1994

CERTIFICATE OF SERVICE

I, Vanessa L. Fountain, hereby certify that a copy of OPASTCO's reply comments was sent on this, the 29th day of June, 1994, by first class, United States mail, postage pre-paid, to those listed below.

A handwritten signature in cursive script that reads "Vanessa L. Fountain". The signature is written in dark ink and is positioned above the printed name.

Vanessa L. Fountain

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